THE HIGH COURT OF UTTARANCHAL AT NAINITAL.
Writ Petition (S/S) No. 03 of 2005

Jai Bhagwan Sharma,
S/O Sri Asharam Sharma,
R/O B-36, Jal Nigam Colony, Indira Nagr,
Dehradun, District Dehradun. …….. **Petitioner.**

Versus

1. Uttaranchal Pey Jal through its Managing Director, Dehradun, Uttaranchal.
2. The Managing Director, Uttaranchal Sansadhan Vikas and Nirman Nigam, Dehradun, Uttaranchal.
3. U.P. Jal Nigam through its Managing Director 6-Rana Pratap Marg, Lucknow.

…… **Respondents.**

Sri S.S. Chauhan, Adv., learned counsel for the petitioner.
Sri D.S. Pant, Adv., learned counsel for the respondents 1 & 2.

Dated January 12, 2005.
PC:
(Hon'ble B.S. Verma, J.)

By way of this writ petition, the petitioner seeks direction in the nature of mandamus commanding the respondents to treat the petitioner under the Hill Sub Cadre of Uttaranchal Pey Jal Nigam and to include his name in appropriate place in impugned seniority list with the allegation that the petitioner was inducted as Junior Engineer on 6-1-1979 in the service of the respondents; that the options of the employees for the Hill Sub Cadre were invited vide letter dted 20-01-1993 by the Chief Engineer, thereby the petitioner opted for Hill Sub Cadre on 5-3-1998; that the petitioner had earlier sent his option on 5-2-1996 to that effect; that by Office Memorandum dated 10-09-1997 U.P. Jal Nigam published a seniority list of Assistant Engineers of U.P. Hill Sub Cadre with the proviso that in case the name of any person has been left over, he should submit a representation for inclusion of his name; that subsequently the respondent authorities dropped the process of creation of Hill Sub Cadre in pursuance to 1992 Rules and by Office Memorandum Dated 28-11-1997 earlier memorandum dated 10-9-1997 was cancelled on account of non-applicability of Rules; that despite several representation and recommendation, the name of the

petitioner was not considered for absorption in the Hill Sub Cadre; that one Sukhdev Singh of U.P. Jal Nigarm preferred writ petition No. 860 of 2001, Sukhdev Singh vs. U.P. Jal Nigam and others and this Court decided the dispute of allocation of Hill Sub Cadre in U.P. Jal Nigam vide order dated 5-10-2001 and subsequently on that ground the writ petition no. 372 of 2004 preferred by one Mahendra Singh was allowed by this Court on 29-11-2004; that the case hence the petitioner has come up before this Court in Writ Petition.

Learned counsel for the petitioner submitted that the Board framed regulations as Uttar Pradesh Jal Nigam Hill Sub Cadre Regulations 1998. After the enforcement of the said regulations, again options were invited by the Circular dated 20-1-1999. He further submitted that this option exercised in the year 1996 could be accepted after the enforsement of regulations of 1998.

From the record, it is evident that the petitioner exercised his option prior to the enforcement of Hill Sub Cadre Regulations 1998 and his option could have been proceeded with as it was not exercised in pursuance of the Circular issued on 20-1-1999. It is pertinent to mention that on similar facts and circumstances, Writ Petition No. 860 (S/B) of 2001, Filed by one Sukhdev Singh Mehta, was allowed vide order dated 5-10-2001.In my opinion, this writ petition has been filed on almost similar grounds, therefore, this petition is liable to be disposed of in terms of judgment and order dated 5-10-2001 Passed in Writ Petition No. 860 of 2001.

The writ Petition is disposed of finally in terms of judgment and order dated 5-10-2001 Passed in Writ Petition No. 860 (S/B) of 2001, Sukhdev Singh Mehta Vs. State of Uttaranchal and others, provided the option exercised by the petitioner is found to be genuine.

(B.S. Verma, J.)

RCP